

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

RECEIVED # 104  
AMOUNT \$ 1.22  
SUMMONS ISSUED Y-r  
LOCAL RULE 4.1 \_\_\_\_\_  
WAIVER FORM \_\_\_\_\_  
MCF ISSUED \_\_\_\_\_  
BY DPTY. CLK. \_\_\_\_\_  
DATE 9-7-04  
CIVIL ACTION NO: \_\_\_\_\_

Lawrence J. Mesite  
Plaintiff

v.

Newton Police Officer, Dawn Hough,  
Newton Police Officer Joanne Blay,  
Newton Police Officer Dina Vacca,  
The City of Newton, Superintendent,  
Kenneth Nelson and Bridgewater  
State Hospital  
Defendants

**COMPLAINT**MAGISTRATE JUDGE Collings**Plaintiff Demand A Trial By Jury To All Issues At Law And Equity**

1.

The plaintiff, Lawrence J. Mesite, resides at 3 Rocdean Drive, No. 302, Nashua, New Hampshire 03063.

2.

The defendants, Newton Police Officer, Dawn Hough; Newton Police Officer, Joanne Blay; Newton Police Officer Dina Vacca are employed by The City of Newton Police Department, 1321 Washington Street, West Newton, Massachusetts 06465; The City of Newton. The defendant maintains a police department at 1321 Washington Street, West Newton, Massachusetts 06465.

3.

The defendant, Superintendent Kenneth Nelson, is the superintendent of the Bridgewater State Hospital, 20 Administration Road, Bridgewater, MA 02324.

4.

On or about September 17, 2001, Officer Dawn Hough, Newton Police Department was on duty at Temple Reyin in Newton, Massachusetts. She was stationed at the rear exit of the parking lot in her personal vehicle.

5.

Hough saw Lawrence Mesite and Keith Bertrand enter the parking lot of the Temple Reyin and park the car among cars at the far end of the lot.

6.

Officer Hough approached Mesite after she saw Mesite crouched near the license plates at the front and rear ends of the car and inquired if Mesite and Bertrand needed any help.

7.

Hough only saw a screw driver in Bertrand's hand.

8.

Hough did not see either defendant remove any plates, nor did she see Bertrand or Mesite attach any plates.

9.

Hough requested identification from Mesite and Bertrand and they complied.

10.

Hough called in backup and told Mesite and Bertrand to wait until she could verify Mesite and Bertrand's information.

11.

Mesite and Bertrand were out of the car during this time and remained out of the car at all times. Neither Mesite or Bertrand attempted to flee nor did they provide any false information.

12.

When the backup officers arrived a computer check of Mesite's license was run as were the plates attached to the car. The licenses were valid with no suspension or revocation noted. A Board of Probation record check of Mesite did not show any outstanding wants or warrants on either Mesite or Bertrand. The car was validly registered to Mesite.

13.

At this point Officer Blay instructed Bertrand to go to the car and get the license plates that were alleged to have been attempted to be placed on the car.

14.

Bertrand complied with Officer Blay's Order. These plate numbers were run. Those plates did not match. One initially was reported as stolen and the second plate was reported missing.

15.

Newton Police Officers Hough, Blay and Vacca conducted a plain view search of the vehicle including looking into the vehicle through the

windows. Nothing illegal was seen in plain view.

16.

The Officers proceeded to conduct an aggressive search of the interior of the automobile. While inside the car, Newton Police Officer Vacca checked the rear deck of the car and Newton Police Officer Blay searched the interior of the compartment by entering through the front door and climbing over into the back seat. While searching a red shopping bag in the back seat, Officer Blay found inside, ammunition, a .22 caliber revolver and a loaded Blacksmith and Wesson 9mm.

17.

These items as well as the license plates were taken from the interior of the car and were the subject matter of a motion to suppress. The defendants never secured a search warrant though they had ample opportunity to do so.

18.

Lawrence Mesite was arrested on September 21, 2001, Mesite was placed in solitary confinement for three (3) months pursuant to the illegal search and seizure.

19.

Mesite was placed in Bridgewater State Hospital under the supervision of Supt. Nelson. Nelson and Bridgewater State Hospital were responsible for the physical beatings Mesite suffered in their custody. Mesite was placed in danger of physical harm due to the illegal search and seizure.

20.

Mesite was held in lieu of bail as a defendant waiting trial from September 17, 2001 until August 2, 2002 pursuant to the illegal search and seizure of the Newton Police Department and its officers.

21.

The defendants had a duty to Mesite as a defendant waiting trial to be held pursuant to 52A status. The defendants did not follow public policies in this matter.

22.

Mesite was not to be mixed in with the other inmates. Mesite was beaten up badly when placed into the general population. His rights pursuant to 52A were seriously violated by all defendants.

23.

Mesite was never given a speedy trial, he was held for eleven (11) months pursuant to evidence from an illegal search and seizure.

24.

Mesite was wrongfully incarcerated from September 17, 2001 until August 2, 2002.

25.

The Newton Police Officers involved in the illegal search had sufficient time and ability to get a search warrant. The matter was marked up for a Motion to Suppress.

26.

On September 17, 2002 the Commonwealth dismissed the Mesite matter entering a nolle prosequi.

“The Motion to Suppress having been allowed in the Mesite matter, the Commonwealth has insufficient evidence to proceed.”

Mesite spent eleven (11) months in prison, subject to physical beatings, placed in general population and never given a speedy trial due to illegal search and seizure by defendants.

**COUNT ONE**

**Violations of 42 U.S. Code Section 1983**

27.

The plaintiff incorporates paragraphs one through twenty-six by reference.

28.

Newton Police Officers Dawn Hough; Newton Police Officer Joanne Blay; Newton Police Officer Dina Vacca, The City of Newton and Bridgewater Superintendent Kenneth Nelson, under color of any state law, statute, ordinance, regulation, custom or usage of any state law caused Lawrence Mesite to be subjected to the deprivation of his First, Fourth, Sixth and Fourteenth Amendment Rights secured by U.S. Constitution and laws are liable to Mesite injured in an action of law.

WHEREFORE, Lawrence Mesite demands money damages, actual or punitive, interest, costs and attorneys fees against all defendants in the above matter.

The plaintiff,  
By his attorney,

A handwritten signature in black ink, appearing to read 'D. Scarano', is written over a horizontal line.

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Damon Scarano, Esquire  
Attorney At Law  
60 Commercial Wharf  
Boston, MA 02110

# CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

**LAWYENCE J. MESITZ**

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF **N.H.**  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

**Damon Scarano**  
**60 Commercial Wharf**  
**Boston, MA 02110**

## DEFENDANTS

**Newton Police, Officer Dawn Hough**  
**Newton Police Officer Diane Blay**  
**Newton Police Officer Diana et al**  
**mesitsek**

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

## II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☒ 3 Federal Question (U.S. Government Not a Party)  
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- |   | PTF                                   | DEF                                 |   | PTF                        | DEF                        |
|---|---------------------------------------|-------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1            | <input checked="" type="checkbox"/> | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/>            | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/>            | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

## V. NATURE OF SUIT

(PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 420 Copyrights <input type="checkbox"/> 430 Patent <input type="checkbox"/> 440 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 510 Selective Service <input type="checkbox"/> 550 Securities/Commodities/Exchange <input type="checkbox"/> 575 Customer Challenge 12 USC 3410 <input type="checkbox"/> 591 Agricultural Acts <input type="checkbox"/> 592 Economic Stabilization Act <input type="checkbox"/> 593 Environmental Matters <input type="checkbox"/> 594 Energy Allocation Act <input type="checkbox"/> 595 Freedom of Information Act <input type="checkbox"/> 599 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 650 Constitutionality of State Statutes <input type="checkbox"/> 690 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input checked="" type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>HABEAS CORPUS:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 661 HIA (1395ff) <input type="checkbox"/> 662 Black Lung (923) <input type="checkbox"/> 663 DIWC/DIWW (405(g)) <input type="checkbox"/> 664 SSID Title XVI <input type="checkbox"/> 665 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 670 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 671 IRS - Third Party 26 USC 7609

## VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

**42 U.S. Code 1983 Police Brutality, Illegal Search**

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION  
☐ UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ YES ☐ NO

## VIII. RELATED CASE(S) IF ANY

JUDGE **N/A**

DOCKET NUMBER

DATE **Sept 7, 2004** SIGNATURE OF ATTORNEY OF RECORD **[Signature]**

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_



UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) Lawrence Mesire v. Newton Police Officer Dawn Hough

2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).

I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.

II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950. \*Also complete AO 120 or AO 121 for patent, trademark or copyright cases.

III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.

IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.

V. 150, 152, 153.

3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(G)). IF MORE THAN ONE PRIOR RELATED CASE HAS BEEN FILED IN THIS DISTRICT PLEASE INDICATE THE TITLE AND NUMBER OF THE FIRST FILED CASE IN THIS COURT. h/a

4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT?

YES ☐ NO ☒

5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? (SEE 28 USC §2403)

YES ☐ NO ☒

IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY?

YES ☐ NO ☒

6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC §2284?

YES ☐ NO ☒

7. DO ALL OF THE PARTIES IN THIS ACTION, EXCLUDING GOVERNMENTAL AGENCIES OF THE UNITED STATES AND THE COMMONWEALTH OF MASSACHUSETTS ("GOVERNMENTAL AGENCIES"), RESIDING IN MASSACHUSETTS RESIDE IN THE SAME DIVISION? - (SEE LOCAL RULE 40.1(D)).

YES ☐ NO ☒

A. IF YES, IN WHICH DIVISION DO ALL OF THE NON-GOVERNMENTAL PARTIES RESIDE?

EASTERN DIVISION ☒ CENTRAL DIVISION ☐ WESTERN DIVISION ☐

B. IF NO, IN WHICH DIVISION DO THE MAJORITY OF THE PLAINTIFFS OR THE ONLY PARTIES, EXCLUDING GOVERNMENTAL AGENCIES, RESIDING IN MASSACHUSETTS RESIDE?

EASTERN DIVISION ☒ CENTRAL DIVISION ☐ WESTERN DIVISION ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Damon Scarboro

ADDRESS 60 Commonwealth

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